

**Board for Judicial Administration  
Meeting Minutes**

**October 16, 2009  
AOC SeaTac Office  
SeaTac Office**

**Members Present:** Chief Justice Gerry Alexander, Chair; Judge Michael Lambo, Member-Chair; Judge Rebecca Baker; Judge Stephen E. Brown; Judge Sara Derr; Judge Susan Dubuisson; Judge Tari Eitzen; Judge Deborah Fleck; Ms. Paula Littlewood; Mr. Salvador Mungia; Judge Glenn Phillips; Judge Stephen Warning; and Judge Christopher Wickham

**Guests Present:** Mr. M. Wayne Blair, Ms. Jeri Cusimano, Ms. Ruth Gordon, Ms. Betty Gould, Ms. Marti Maxwell, Mr. Michael Merringer, Ms. Barb Miner, and Ms. Nancy Scott

**Staff Present:** Ms. Ashley DeMoss, Ms. Beth Flynn, Mr. Dirk Marler, Ms. Mellani McAleenan, Ms. Regina McDougall, and Mr. Chris Ruhl

Chief Justice Alexander called the meeting to order and introductions were made around the room.

Judge Fleck reported on the status of the Howard Hanson Dam and flood planning. King County is working with the federal government to try to get a disaster declared now so they can prepare for the possibility of flooding. Because of weather forecasting, it is possible there will be 6-12 days' notice in advance of flooding. Jail services will be renting space out of the valley for inmates.

Judge Phillips added that the dam level will be kept at about one-third of capacity. There is a 25-33% chance that flooding will occur. Giant sandbags are being placed around the levies in Kent and the valley courts are working with the Administrative Office of the Courts (AOC) to determine if a site can be developed on Inside Courts as a resource management tool for flooded courts.

Ms. Miner stated they still have boxes of files that need to be moved. They are doing everything they can to plan ahead and are thankful for electronic records but those just started in about 2000 so they still have boxes of case records that need to be moved. Luckily, the old bankruptcy court building is available to rent and contains courtrooms.

September 18, 2009 Meeting Minutes

**It was moved by Judge Wickham and seconded by Judge Dubuisson to approve the September 18, 2009 BJA meeting minutes. The motion carried.**

### BJA Legislative Agenda

Ms. McAleenan received a letter from Yakima County Superior Court requesting an additional superior court judge. That is the only item they have for BJA request legislation at this time.

**It was moved by Judge Derr and seconded by Judge Baker to approve the recommended BJA request legislation. The motion carried.**

### Appointment to the BJA Best Practices Committee

**It was moved by Judge Phillips and seconded by Judge Derr to reappoint Mr. Steven J. Kinn to the BJA Best Practices Committee. The motion carried.**

### Appointment to the BJA Court Security Committee

**It was moved by Judge Dubuisson and seconded by Judge Baker to reappoint Mr. Craig Daly to the BJA Court Security Committee. The motion carried.**

### Washington State Association of County Clerks Legislative Agenda

Ms. Miner reported that the Washington State Association of County Clerks (WSACC) just has one piece of legislation being worked on this session. It is their third time running the bill (HB 1003 in 2009) and it relates to their responsibility to manage and pay for publication of notices in newspapers for dependency and termination cases. They are looking to move that responsibility, and other notice provisions in the law, to the plaintiff. For dependency and termination cases, DSHS would be responsible for the publishing work and costs. If the state pays for it, they would be reimbursed by the federal government for 38% of the cost, under Title 4E. Clerks are not eligible to receive any reimbursement. The WSACC is working with the Attorney General on this and needs to ensure DSHS is also on board.

Chief Justice Alexander asked that this bill be taken to the BJA Legislative Executive Committee for support at their next meeting.

### Suspension of Judge During Commission on Judicial Conduct Investigation

Judge Lambo reported that this agenda item stems from a rule change proposal that Judge David Larson, Federal Way Municipal Court, sent to Judge Phillips and Justice Charles Johnson. Judge Larson would like to change GR 29(f)(5) which he perceives has a gap in the rule that makes it unclear as to what should occur when a workplace-related complaint is made by a court employee. The lack clarity and incomplete nature

of the rule leads to tension, confusion, and misunderstanding between the judicial branch seeking to follow GR 29, and the executive/legislative branches wanting to minimize the chance of liability related to human resources issues they do not control.

Judge Larson's proposed amendment would allow a presiding judge to work with the Commission on Judicial Conduct when a complaint is filed alleging the court is a hostile work environment.

At the request of Judge Lambo, Mr. Marler and Ms. McAleenan looked into the issue of suspending a judge pending investigation and discovered that it has been very rare but in the past the Supreme Court has suspended a judge, with pay, while being investigated. Chief Justice Alexander stated he thinks suspending a sitting judge has happened once while he was on the Supreme Court when an order to suspend a sitting judge under investigation was entered. In that situation there was agreement between the judge and the Commission on Judicial Conduct regarding the suspension. Chief Justice Alexander does not think the Supreme Court has the authority to suspend a judge pending investigation. However, he said if the Washington State Bar Association (WSBA) recommends that the Supreme Court suspend an attorney/judge, the Supreme Court can approve or deny that request.

Judge Phillips stated the District and Municipal Court Judges' Association (DMCJA) Board discussed whether there should be an avenue to seek suspension of a sitting judge under appropriate circumstances, and, if so, what mechanism would be used. There was concern, particularly in light of some recent higher profile cases, that the Legislature might take action in this area if the courts did not.

Judge Lambo suggested bringing this issue back for further discussion at a future meeting.

#### Interpreter Oath

There was discussion during a recent Interpreter Commission meeting regarding possible legislation or a rule change to revise the requirements of the interpreter oath. The Commission would like courts to be able to permanently swear in certified court interpreters instead of having to swear them in for each hearing.

This issue was discussed during the BJA Legislative Executive Committee conference call a few weeks ago and they decided to bring the issue to the full Board.

During discussion, it was suggested that Washington model Oregon's statute. Qualified interpreters were also discussed and a suggestion was made to not permanently swear them in but to possibly swear them in at the beginning of each day instead of for each hearing.

**It was moved by Judge Baker and seconded by Judge Eitzen that the BJA support legislation to permanently swear in certified interpreters and that legislation be drafted and brought back to the November meeting for approval. The motion carried.**

#### Court Management Council Court Transcriptionists Subcommittee

Mr. Marler shared that the Court Management Council has created a Court Transcriptionists Subcommittee under the leadership of Ms. Renee Townsley, with representatives from all court levels. The Subcommittee is addressing some issues that have been ongoing with respect to transcription and the verbatim report of proceedings (VRPs). Court of Appeals (COA) Divisions II and III have been having significant issues regarding timely and accurate VRPs and inconsistent formats.

#### Filing Fee Workgroup

A chart containing court fees updated for inflation was distributed in the meeting materials. Ms. McAleenan explained that several years ago the Court Funding Task Force recommended that the BJA annually review court fees and request adjustments due to inflation.

A workgroup was established during the September 2009 BJA meeting and they met by phone on Wednesday. There was no guidance from the workgroup on what should be done with the updated fee chart. At this point in time, there is no particular plan for another meeting. Ms. McAleenan is requesting guidance from the BJA on how to proceed.

Chief Justice Alexander and Judge Lambo referred this issue to the SCJA, DMCJA, JIJIC and WSACC for review. If any of the groups would like to pursue a fee increase, they can bring it back to the BJA at a future meeting.

#### Access to Justice Board (ATJ)

Mr. Blair stated that the Equal Justice Coalition is sponsoring a Lobbying 101 CLE which will be held at the University of Washington School of Law from 3-5 p.m. on October 20. The main focus of the CLE will be how to lobby for funding.

The ATJ Board is about to engage in a new project with the AOC and the Office of Administrative Hearings regarding how to deal with pro se litigants in court. There are no easy answers but there is an effort to try to look at this issue in detail. Former Representative Pat Lantz is one of the committee chairs.

### Washington State Bar Association

Mr. Mungia reported that Bar members are stepping up to the plate and volunteering for the very successful home foreclosure legal aid project. The WSBA is also working to launch a statewide moderate means program for people who are not eligible for no-cost civil legal aid because of income levels but still cannot afford an attorney. The WSBA is hoping to partner with Seattle University Law School on the initial launch and then reach out to work with all three law schools in the state. Law students would help with client intake and WSBA will recruit and train lawyers willing to take on these cases for a reduced rate.

The WSBA is forming a task force to look at the escalating cost of litigation. They are in the process of finding a chair for the task force.

During the October WSBA Board of Governors (BOG) meeting in Pullman, they will hear from the Bylaw Review Task Force.

Ms. Littlewood announced the launch of the new MyWSBA Web site. Before going live, 54 members had already filled out their licensing paperwork online.

### Reports from the Courts

**Supreme Court:** Chief Justice Alexander reported that the Supreme Court will be holding a session at Peninsula College in Port Angeles on October 27.

The Supreme Court will be electing a new Chief Justice during the November En Banc. Chief Justice Alexander is stepping down as Chief Justice effective January 11, 2010.

**Superior Courts:** Judge Eitzen was moved by President Mungia's presentation at the Fall Judicial Conference and she learned that the Superior Court Judges' Association's participation rate in the Nevins/Lawless fund is only 24%. She is researching the possibility of contributing via payroll deduction because even if a very modest sum is donated, if every judge participated it would add up and make a big difference. Judge Eitzen will work with Judge Phillips to encourage judicial participation.

**Courts of Limited Jurisdiction:** Judge Phillips reported that the District and Municipal Court Judges' Association's Spring Conference will be held in Spokane.

The DMCJA Board met during the Fall Judicial Conference and the DMCJA Legislative Committee recommendations were considered. The DMCJA will be bringing them before the BJA for support at a future meeting.

### Association Reports

**County Clerks:** Ms. Miner stated that the Clerks are currently in the mode of being dramatically impacted by budget reductions. It is very challenging and some are finding themselves closing their offices on Fridays and during the lunch hour which will most likely result in diminished services to customers. Many clerks are taking steps to become more efficient by using technology to save staff time.

**Superior Court Administrators:** Ms. Maxwell said their association held their Fall Conference at Alderbrook two weeks ago and it was a success. Budget reductions were a hot topic during the conference. Ms. Maxwell thanked the AOC for their assistance with the conference, especially Ms. Sondra Hahn.

**District and Municipal Court Administrators:** Ms. Cusimano reported that their association's Fall Regional was scheduled in six locations this month but they only had 33 registered attendees and had to cancel the training. This is the first time they had to cancel training and it will be a hot topic at their board meeting.

They are looking forward to having a joint conference with the judges in May.

**Juvenile Court Administrators:** Mr. Merringer stated that during the last legislative session they attempted to have funds transferred from the Juvenile Rehabilitation Administration to the AOC. They are trying to develop a block grant model for this legislative session and have until December 1 to make a report to the Office of Financial Management and the Legislature.

### Administrative Office of the Courts

Mr. Marler reported that AOC is dealing with budget constraints and is adapting. One example is the courthouse facilitators training program which was held at the AOC SeaTac office, resulting in no cost for the facility and minimal expenses for the educators. The program was successful.

The Presiding Judges Education Committee met to reformulate their title and mission since the Presiding Judges Conference was eliminated during budget reductions. They are trying to be very creative in how they deliver curriculum in the future and proposed a series of introductory programs to be offered during court-level conferences.

### Other Business

**BJA Financial Report:** Ms. McAleenan gave the quarterly report on the private BJA funds. There is approximately \$9,300 in the account and dues requests will go out in the next few weeks.